

EXHIBIT D



September 28, 2023

VIA EMAIL

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Re: *White, et al. v. Samsung Electronics America, Inc., et al.*, No. 17-1775 (MCA)(JSA)
Re: Search terms

Dear Counsel:

This letter follows the parties' September 28, 2023 meet and confer about Samsung's proposed search terms, which it circulated September 27, 2023.

As Plaintiffs mentioned during today's meet and confer, it is troubling that Samsung did not test its proposed search terms before proposing them to Plaintiffs. As a result, despite having access to the body of documents the terms will be run against, Samsung has not yet undertaken any effort to determine whether the terms it proposed will be effective. Indeed, Samsung disclosed that it has not yet completed the collection of Messrs. Abuali's and Chung's documents. Plaintiffs have been requesting their documents (and requesting to depose them) for months, and the Court ordered us to meet and confer on terms for their documents two weeks ago. Samsung can't test the efficacy of any proposed terms or strings until collection and staging on a review platform is complete. As a result, Samsung's production is stalled, Plaintiffs' ability to depose Messrs. Abuali

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and Chung is further delayed, and discovery continues to lag behind where it needs to be to meet the Court's schedule.

In addition, the scope of Samsung's proposed terms is not broad enough to help it surface documents responsive to the full scope Plaintiffs' requests or relevant to the full scope of Plaintiffs' allegations or Samsung's defenses in the case. Attached hereto are Samsung's proposed terms and Plaintiffs' proposed additions, which are aimed at assisting Samsung in identifying and producing responsive, relevant documents.¹ (Plaintiffs also propose one minor modification to one of Samsung's terms.) Samsung's proposed terms are in red. Plaintiffs' are in blue.

Plaintiffs request that Samsung immediately identify by September 29 any proposed strings, terms, or characters that cause problems with the platform it is using to run its searches across the document collection. Plaintiffs further request that Samsung provide hit counts and richness analyses on suitably large sample sets for each string to enable the Parties to evaluate the effectiveness of the terms. Samsung should review a random sample of "hits" (to evaluate potential over-inclusiveness) and "misses" (to evaluate potential under-inclusiveness) based on a sample size of roughly 400 to 700 randomly selected documents per search string to evaluate the effectiveness of search terms.² Plaintiffs request that Samsung provide this information as soon as possible, and in any event no later than October 5, 2023. The Parties should meet and confer within two business days after Samsung provides hit and richness analyses for the proposed search strings to determine if they can agree on search strings and to identify disputed strings to bring to the Court's attention for resolution.

Sincerely,

/s/ Matthew S. Melamed
Matthew S. Melamed

/s/ Joshua D. Samra
Joshua D. Samra

¹ Plaintiffs reserve the right to propose additional terms, strings, or modifications based on the results of Samsung's testing or on additional information they learn from opposing counsel, through document production, in sworn testimony, or from other sources.

² See Garrie and Griver, Dispute Resolution and e-Discovery, Thomson Reuters Westlaw at § 7.5.

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ATTACHMENT

The table below reflects the Parties' proposed search strings. Samsung's proposals are in red. Plaintiffs' proposals are in blue.

No.	String
1	"Automatic Content Recognition" OR ACR OR "Automatic Content Software" OR ACS
2	"Matching Server" OR "Matching Database" OR ((server* OR database* OR identif* OR record* OR list* OR log* OR *hub) AND (consent* OR permission* OR arbitrat* OR choice* OR select* OR priva* OR (opt* w/2 (in OR out))))
3	SamsungACR.com OR samsungcloudsolution OR samsungelectronics OR samsungqbe OR samsungiotcloud OR samsungcloudsolution OR samsungnyc OR samsungrm OR samsungads OR samsungotn OR samsungcloudcdn OR core-control-samsung OR samsungadhub
4	"dark pattern*" OR "deceptive pattern*" OR (default* w/20 (consent* OR approv* OR agree* OR (opt* w/2 (in OR out))))
5	("customer service" OR complain* OR support) AND (data OR individual* OR collect* OR disclos* OR sensitive OR information OR info OR priva* OR term* OR tos OR tnc OR polic*)
6	(TOS OR draft* OR term* OR supplement* OR updat* OR consent* OR tnc OR polic* OR notice*) AND (test* OR data OR info OR information OR priva* OR arbitrat* OR personal OR individual* OR user* OR view* OR customer* OR consumer* OR sensitive OR disclos* OR content* OR advert* OR automat*)
7	(Consent* OR data OR TOS OR term* OR engagement OR (set /2 up) OR (sign /2 up)) AND (flow* OR skip* OR (opt* w/2 (in OR out)))
8	(government* OR regulat* OR FTC OR "federal trade" OR DOJ OR justice OR investigat* OR inquir* OR violat*) AND (consent* OR arbitrat* OR choice* OR select* OR (opt* w/2 (in OR out)) OR data OR collect* OR disclose* OR sensitive OR information OR priva* OR term* OR tos OR polic* OR automat* OR info)
9	(Surveil* OR spy* OR snoop* OR track* OR capture* OR expos* OR export* OR collect*) AND (test* OR priva* OR personal OR individual* OR pi OR user* OR view* OR sensitive OR disclos* OR data OR sensitive OR information OR info OR content* OR automat* OR pixel*)
10	(Revenue* OR rev OR profit* OR \$ OR earn* OR dollar* OR USD OR valu* OR annual* OR year* OR month*) AND (data OR user* OR personal OR information OR info OR priva* OR consent* OR (opt* w/2 (in OR out)) OR ads OR advert*)
11	Wiretap* OR ECPA OR ("electronic communication*" w/5 (act OR statute OR law*))
XX-YY	<i>Placeholder for additional terms used internally at Samsung</i>